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California Department of Corrections and
Rehabilitation*

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JOHN ARMSTRONG, et al.,

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

Defendants.

Case No. 94-cv-02307 CW

**DECLARATION OF E. BRAZIL IN
SUPPORT OF DEFENDANTS' SUR-
REPLY TO PLAINTIFFS' MOTION FOR
A PERMANENT INJUNCTION AT
SEVEN PRISONS AND STATEWIDE**

I, E. Brazil, declare:

1. I am employed with the California Department of Corrections and Rehabilitation (CDCR). I currently work at Mule Creek State Prison. I am a Correctional Officer. I am competent to testify to the matters set forth in this declaration and, if called upon by this Court, I could and would so testify. I submit this declaration in support of Defendants' Sur-Reply to Plaintiffs' Motion for an Injunction at Seven Prisons and Statewide.

2. On August 27, 2020, I was performing my duties on A Yard. I was in the Facility A Gymnasium, when I responded to a Code 1 Alarm in Building 5 for a resistive inmate.

1 3. Upon arriving to the location of the incident, the Building 5 Dayroom, I observed an
2 inmate sitting on the ground in restraints. He was later identified as Inmate [REDACTED]
3 [REDACTED] using his state identification card. Inmate [REDACTED] was screaming racial slurs at officers in
4 the nearby vicinity.

5 4. I assisted Inmate [REDACTED] into a prone position, in order for Correctional Officer R.
6 Cook to apply leg restraints to Inmate [REDACTED] legs. Inmate [REDACTED] continued screaming
7 obscenities at all officers in the area.

8 5. Correctional Officer C. Winkler and I assisted Inmate [REDACTED] to his feet and began
9 escorting him out of the building.

10 6. While en route to the Facility A Clinic, Inmate [REDACTED] refused to walk and attempted
11 to go down to the ground in front of the Facility A EOP (Enhanced Outpatient Program) Building.
12 Officer C. Winkler and I assisted Inmate [REDACTED] into a prone position on the ground.

13 7. Correctional Officer F. Orr responded from the Facility A Clinic with a state
14 wheelchair. Officer C. Winkler and I assisted Inmate [REDACTED] to his feet and placed him into the
15 wheelchair without resistance. Officer C. Winkler and I relinquished custody of Inmate [REDACTED] to
16 Officer F. Orr. Officer Orr escorted Inmate [REDACTED] to the Facility A Clinic in a wheelchair.

17 8. Upon completion of the medical evaluation, Officer F. Orr escorted Inmate [REDACTED] to
18 the Facility A Program Office. I saw Officer C. Winkler assisting Inmate [REDACTED] out of the
19 wheelchair and escort him to Temporary Holding Cell #2.

20 9. Officer C. Winkler ordered Inmate [REDACTED] to submit to an unclothed body search to
21 which Inmate [REDACTED] replied, "Fuck you bitch ass cops." I heard Officer C. Winkler ordering
22 Inmate [REDACTED] to submit to an unclothed body search again. Inmate [REDACTED] replied, "Fuck you."

23 10. Officer C. Winkler explained to Inmate [REDACTED] that if he did not submit to an
24 unclothed body search, his clothes would have to be cut off to ensure that he did not have any
25 contraband. Inmate [REDACTED] replied, "Do what you got to do."

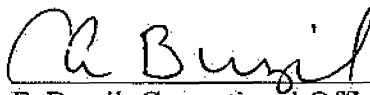
26 11. I maintained custody of Inmate [REDACTED] while Officer C. Winkler retrieved safety
27 scissors. Officer C. Winkler came back to the Temporary Holding Cell and proceeded to cut off
28 Inmate [REDACTED] clothes down to his boxers.

1 12. I saw Officer C. Winkler perform an unclothed body search and he found no
2 contraband on Inmate [REDACTED]. Officer C. Winkler secured Inmate [REDACTED] into Temporary Holding
3 Cell #2 with his state boxers on. Inmate [REDACTED] was given a new set of state issued clothing.

4 13. I resumed my duties on A Yard.

5 14. I wrote an incident report documenting this incident the same day, August 27, 2020.
6 Attached to this declaration as **Exhibit A** is a true and correct copy of my report. This report
7 accurately describes what I observed that day, and I incorporate the contents of my report into this
8 declaration by reference.

9 I declare under penalty of perjury that the foregoing is true and correct. Executed on
10 November 16, 2020, in Ione, California.

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12 E. Brazil, Correctional Officer
13 Mule Creek State Prison
14 California Department of Corrections and Rehabilitation
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EXHIBIT A

CDCR

INCIDENT REPORT PACKAGE

PAGE: 20

REPORT NO. [REDACTED]

INCIDENT LOG NUMBER: [REDACTED]

PROCESSED: 10/02/2020 12:42

REQUESTOR: E. Laird

STAFF NARRATIVE

STAFF NAME: Brazil, E [REDACTED]

NARRATIVE TYPE: Initial Report

CREATED DATE: 08/27/2020

CREATED TIME: 13:16:23

NARRATIVE

On Thursday, August 27, 2020, at approximately 0824 Hours, while performing my duties as A YARD #1, I responded from Facility 'A' Gymnasium to a Code 1 Alarm in Building 5 for a resistive inmate. Upon arriving to the location of the incident, I observed an inmate (later identified via state identification card as [REDACTED]) sitting on the ground in restraints. Inmate [REDACTED] was screaming racial slurs at the Officers in the nearby vicinity. I assisted inmate [REDACTED] into a prone position, in order for Correctional Officer R. Cook to apply leg restraints to inmate [REDACTED]' legs. Inmate [REDACTED] continued screaming obscenities at all Officers in the area. Correctional Officer C. Winkler and I assisted inmate [REDACTED] to his feet and began escorting him out of the building. While in route to Facility 'A' Clinic, inmate [REDACTED] refused to walk and attempted to go down to the ground in front of Facility 'A' Enhanced Outpatient Program (EOP) Building. Officer C. Winkler and I assisted inmate [REDACTED] into a prone position on the ground. Correctional Officer F. Orr responded from Facility 'A' Clinic with a state wheelchair. Officer C. Winkler and I assisted inmate [REDACTED] to his feet and placed him into the wheelchair without resistance. Officer C. Winkler and I relinquished custody of inmate [REDACTED] to Officer F. Orr. Officer F. Orr escorted inmate [REDACTED] via wheelchair to Facility 'A' Clinic where Licensed Vocational Nurse (LVN) Baguion performed a medical evaluation and documented all findings on a CDCR Form 7219. Upon completion of the medical evaluation, Officer F. Orr escorted inmate [REDACTED] via wheelchair to Facility 'A' Program Office. Officer C. Winkler assisted inmate [REDACTED] out of the wheelchair and escorted him to Temporary Holding Cell #2. Officer C. Winkler ordered inmate [REDACTED] to submit to an unclothed body search to which inmate [REDACTED] replied, "Fuck you bitch ass cops." Officer C. Winkler again ordered inmate [REDACTED] to submit to an unclothed body search and inmate [REDACTED] replied, "Fuck you." Officer C. Winkler explained to inmate [REDACTED] that if he does not submit to an unclothed body search he will have to cut his clothes off to ensure that he does not have any contraband. Inmate [REDACTED] replied, "Do what you got to do." I maintained custody of inmate [REDACTED] while Officer C. Winkler retrieved state issued safety scissors from Facility 'A' Correctional Sergeants Office. Officer C. Winkler responded back to the Temporary Holding Cell and proceeded to cut off inmate [REDACTED] clothes down to his boxers. Once inmate [REDACTED] clothes were removed, Officer C. Winkler was able to perform an unclothed body search with negative results for contraband. Officer C. Winkler secured inmate [REDACTED] into Temporary Holding Cell #2 with his state boxers on. Inmate [REDACTED] was given a new set of state issued clothing. I resumed my normal duties as A YARD #1.

E. Brazil

DATE: 08/27/2020

STAFF SIGNATURE

BADGE #: 74003

PERNR: 62100

NARRATIVE REVIEWED: Yes

REVIEWED BY STAFF: Clays, D [REDACTED]

REVIEWED DATE: 08/27/2020

REVIEWED TIME: 13:45:28

STAFF NAME: Brazil, E [REDACTED]

NARRATIVE TYPE: Supplemental Report

CREATED DATE: 08/31/2020

CREATED TIME: 09:34:09

NARRATIVE

Q1. In your report you stated, "Inmate [REDACTED] was screaming racial slurs at the Officers in the nearby vicinity. I assisted inmate [REDACTED] into a prone position, in order for Correctional Officer R. Cook to apply leg restraints to inmate [REDACTED] legs. Inmate [REDACTED] continued screaming obscenities at all Officers in the area." Was inmate [REDACTED] resistive while Officer Cook applied leg restraints? If so, when did inmate [REDACTED] stop resisting?

A1. Yes, inmate [REDACTED] was resisting by kicking his legs. Inmate [REDACTED] stopped resisting after he was secured in leg restraints.

E. Brazil

DATE: 08/31/2020

STAFF SIGNATURE

BADGE #: 74003

PERNR: 62100

NARRATIVE REVIEWED: Yes

REVIEWED BY STAFF: McTaggart, K [REDACTED]

REVIEWED DATE: 08/31/2020

REVIEWED TIME: 09:37:14

CDCR

INCIDENT REPORT PACKAGE

PAGE: 21

REPORT NO. [REDACTED]

INCIDENT LOG NUMBER: [REDACTED]

PROCESSED: 10/02/2020 12:42

REQUESTOR: E. Laird

STAFF NARRATIVE

STAFF NAME: Brazil, E [REDACTED]
CREATED DATE: 08/31/2020

NARRATIVE TYPE: Supplemental Report
CREATED TIME: 09:42:09

NARRATIVE

Q1. Did you observe Officer Cook use force when securing inmate [REDACTED] in leg restraints? If so, describe the use of force.

A1. No, I did not see Officer Cook use force due to my focus on inmate [REDACTED] upper body.

E. Brazil
 STAFF SIGNATURE

DATE: 08/31/2020

BADGE #: 74003

PERNR: 62100

NARRATIVE REVIEWED: Yes
REVIEWED DATE: 08/31/2020

REVIEWED BY STAFF: McTaggart, K [REDACTED]
REVIEWED TIME: 11:12:24

STAFF NAME: Brazil, E [REDACTED]
CREATED DATE: 09/03/2020

NARRATIVE TYPE: Supplemental Report
CREATED TIME: 08:59:28

NARRATIVE

Q1. How did you assist [REDACTED] into the prone position?

Q2. Did you utilize physical force when assisting [REDACTED] into the prone position?

A1. I placed my right and left hands on his back and guided him into the prone position. My hands remained on his back until he was secured in leg restraints by Officer R. Cook.

A2. No. Although inmate [REDACTED] continued to kick his legs he rolled onto his stomach in the prone position without resistance.

E. Brazil
 STAFF SIGNATURE

DATE: 09/03/2020

BADGE #: 74003

PERNR: 62100

NARRATIVE REVIEWED: Yes
REVIEWED DATE: 09/03/2020

REVIEWED BY STAFF: Hobbs, E [REDACTED]
REVIEWED TIME: 09:07:17